

EXHIBIT A

IN THE CIRCUIT COURT OF LIVINGSTON COUNTY, MISSOURI

| | | |
|---------------------------------|---|-----------------------|
| FSAS, LLC, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | Case No. 22LV-CC00014 |
| |) | |
| SHIMANO, INC. and SHIMANO NORTH |) | |
| AMERICA HOLDING, INC., |) | |
| |) | |
| Defendants. |) | |

NOTICE OF FILING NOTICE OF REMOVAL

TO: THE HONORABLE JUDGES AND CLERK OF THE CIRCUIT COURT OF
LIVINGSTON COUNTY, MISSOURI;

- and -

Lauren A. Horsman
Chapman and Cowherd, P.C.
903 Jackson – P.O. Box 228
Chillicothe, MO 64601
e-mail: lhorsman@cctlaw.com

PLEASE TAKE NOTICE that on Friday, June 10, 2022, Defendant Shimano North America Holding, Inc., filed with the Clerk of the United States District Court for the Western District of Missouri its Notice of Removal removing this action to that Court. A true and correct copy of the Notice of Removal is attached hereto and hereby served upon you.

Respectfully submitted,

ARMSTRONG TEASDALE LLP

By: /s/ Kevin W. Prewitt

| | |
|--|--------|
| Kevin W. Prewitt | #66161 |
| 2345 Grand Boulevard, Suite 1500 | |
| Kansas City, Missouri 64108-2617 | |
| 816.221.3420 | |
| 816.221.0786 (facsimile) | |
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Clark H. Cole
7700 Forsyth Blvd., Suite 1800
St. Louis, Missouri 63105
314.621.5070
314.621.5065 (facsimile)
ccole@atllp.com

#28668

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that on June 10, 2022, I electronically filed the above and foregoing with the Clerk of Court using the CM/ECF system and also sent a copy via e-mail to the following:

Lauren A. Horsman
Chapman and Cowherd, P.C.
903 Jackson – P.O. Box 228
Chillicothe, MO 64601
e-mail: lhorsman@cctlaw.com
Attorneys for Plaintiff

/s/ Kevin W. Prewitt
Attorney for Defendants

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
ST. JOSEPH DIVISION

| | | |
|---------------------------------|---|--------------------|
| FSAS, LLC, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | Case No. 5:22-6057 |
| |) | |
| SHIMANO, INC. and SHIMANO NORTH |) | |
| AMERICA HOLDING, INC., |) | |
| |) | |
| Defendants. |) | |

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant Shimano North America Holding, Inc. (“SNAH”), by and through counsel, as and for its Notice of Removal of this action to the United States District Court for the Western District of Missouri, states as follows:

1. A civil action (hereinafter, the “State Court Action”) has been brought in the Circuit Court of Livingston County, Missouri, entitled *FSAS, LLC v. Shimano, Inc. and Shimano North America Holding, Inc.*, Case No. 22LV-CC00014.

2. All records and proceedings from the State Court Action are annexed hereto collectively as Exhibit A.

3. The State Court Action is an action over which this Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(a)(1), in that it is a civil action wherein the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different states.

4. The Petition’s allegations are ambiguous as to alleged damages amounts. Although the Petition alleges that “FSAS *will seek* to recover less than \$75,000 against Defendants in this matter and the amount in controversy is less than \$75,000, exclusive of interest and costs” (Ex. A,

Petition at ¶ 11) (emphasis added), the Petition does not affirmatively relinquish or waive the right to recover more than \$75,000. It further alleges that “Defendants intentionally interfered with FSAS’s economic relationship with eBay and potential online purchasers,” “harmed FSAS’s business and reputation,” and prays for “actual and punitive damages,” and seeks an “award of attorney’s fees....” Ex. A, Petition at ¶¶ 41, 44, 47-49, 54, and Prayer for Relief.

5. More importantly, the Petition alleges that “[t]his is an action for damages *and* injunctive relief” and, in addition to monetary damages, seeks “an order enjoining Defendants to retract their report and request reinstatement of FSAS’s listing of the Shimano bike chain on eBay....” Ex. A, Petition at ¶ 1, Prayer for Relief (emphasis added). As a result, the amount in controversy includes the value of the object of the injunctive litigation and not simply the monetary amounts demanded. *James Neff Kramper Fam. Farm P’ship v. IBP, Inc.*, 393 F.3d 828, 833 (8th Cir. 2005).

6. Here, the Petition’s allegations describe a value of litigation and economic stake for Plaintiff that exceeds \$75,000 regardless of any alleged monetary damages. Specifically, the Petition contends that “Defendants refuse to retract their false complaint to eBay alleging that FSAS attempted to sell a counterfeit item” and as a result “eBay removed FSAS’s listing of the Shimano bike chain and placed FSAS on a watch list designed to deter online vendors from selling counterfeit items on the eBay platform.” Ex. A, Petition at ¶¶ 34, 43. It asserts that “[a]s few as three reports of allegedly selling a counterfeit item can subject a seller to selling restrictions, end even suspension, from eBay.” Ex. A, Petition at ¶¶ 21. Plaintiff, which is alleged to be “an online retailer with 58 employees” that “purchases freight and processes it for resale online at a discounted price, primarily on a sub-platform on eBay,” “has sold tens of thousands of items through internet sales,” and “[s]crupulous compliance with eBay’s terms and conditions is

essential to the survival of FSAS’s business.” Ex. A, Petition at ¶¶ 13-18. In short, the Petition contends that the very survival of Plaintiff’s primary business is at stake because the counterfeit product report at issue allegedly risks Plaintiff’s suspension from eBay.

7. The parties are completely diverse because they are citizens of different states.

8. Plaintiff is a Missouri limited liability company with its principal place of business in Chillicothe, Missouri.

9. Based on information and belief, none of Plaintiff’s members are citizens of the State of California, but are instead citizens of either Missouri, Kansas, or Illinois. Indeed, the Petition itself concedes that “FSAS and Defendants are citizens and residents of different states for diversity jurisdiction....” Ex. A, Petition at ¶ 12.

10. SNAH is a California corporation with its principal place of business in the State of California.

11. Defendant Shimano, Inc., is a Japanese corporation and therefore a citizen of a foreign state.

12. SNAH received Summons for Service by Registered or Certified Mail on May 13, 2022.

13. This Notice of Removal is therefore timely under 28 U.S.C. § 1446(b) because—without waiving any defenses as to service and expressly preserving all rights to challenge the adequacy of service—it is filed within 30 days of receipt of the summons and the Petition.

14. Pursuant to 28 U.S.C. § 1446(d), a true and complete copy of this Notice of Removal is being filed with the Clerk of the Circuit Court of Livingston County, Missouri.

15. Pursuant to Local Rule 3.2(a)(1)(B), SNAH brings this matter in the Court’s St. Joseph division.

16. Defendant Shimano, Inc., has not been properly served in this action, but in any event, it does consent to removal of the action and will file a notice of consent to removal upon proper service.

WHEREFORE, Defendant Shimano North America Holding, Inc., removes this action to the United States District Court for the Western District of Missouri.

Respectfully submitted,

ARMSTRONG TEASDALE LLP

By: /s/ Kevin W. Prewitt

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St. Louis, Missouri 63105
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314.621.5065 (facsimile)
ccole@atllp.com

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that on June 10, 2022, I electronically filed the above and foregoing with the Clerk of Court using the CM/ECF system and also sent a copy via e-mail to the following:

Lauren A. Horsman
Chapman and Cowherd, P.C.
903 Jackson – P.O. Box 228
Chillicothe, MO 64601
e-mail: lhorsman@cctlaw.com
Attorneys for Plaintiff

/s/ Kevin W. Prewitt
Attorney for Defendants



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22LV-CC00014 - FSAS, LLC V SHIMANO, INC. ET AL (E-CASE)

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05/17/2022 ☐ [Order for Change of Judge](#)

Now on this 16th day of May, 2022, this cause is hereby assigned to Hon. Daren L. Adkins

Filed By: RYAN WESLEY HORSMAN

☐ **Judge Assigned**

05/10/2022 ☐ [Summons Issued-Reg/Cert Mail](#)

Document ID: 22-SMCM-5, for SHIMANO NORTH AMERICA HOLDING, INC.. Summons available for attorney to mail.

☐ [Summons Issued-Reg/Cert Mail](#)

Document ID: 22-SMCM-4, for SHIMANO, INC..

05/06/2022 ☐ **Filing Info Sheet eFiling**

Filed By: LAUREN HORSMAN

☐ **Note to Clerk eFiling**

Filed By: LAUREN HORSMAN

☐ **Confidential Address Filed**

Filing Information Sheet.

Filed By: LAUREN HORSMAN

☐ [Pet Filed in Circuit Ct](#)

Petition; Exhibit 1; Exhibit 2.

Filed By: LAUREN HORSMAN

On Behalf Of: FSAS LLC

☐ **Judge Assigned**

Case.net Version 5.14.51

[Return to Top of Page](#)

Released 05/11/2022

**IN THE CIRCUIT COURT OF LIVINGSTON COUNTY, MISSOURI
DIVISION I**

FSAS, LLC,

Plaintiff,

v.

Case No. _____

Shimano, Inc. and
Shimano North America Holding, Inc.,

Defendants.

PETITION

Plaintiff, FSAS, LLC (hereinafter "FSAS"), by and through undersigned counsel, and for its petition against Defendants Shimano, Inc. (hereinafter "Shimano") and Shimano North America Holding, Inc. (hereinafter "Shimano NA") (collectively "Defendants"), states as follows:

NATURE OF THE ACTION

1. This is an action for damages and injunctive relief for Defendants' baseless and false report to eBay Inc. ("eBay") alleging that FSAS listed a counterfeit Shimano product for sale in FSAS's eBay store.

2. Defendants are aware that FSAS's online resale business depends on FSAS's success in complying with eBay's terms and conditions for online sellers.

3. Defendants' allegation of counterfeit against FSAS has no basis, and FSAS has asked Defendants to retract it several times.

4. Defendants' refusal to retract a false report of offering counterfeit products for sale constitutes tortious inference with business relations, injurious falsehood and defamation.

5. FSAS has suffered actual damages as a result of Defendants' false report and will continue to suffer damages if the false report is not retracted.

PARTIES

6. FSAS, LLC is a Missouri limited liability company with its principal place of business in Chillicothe, Missouri.

7. Shimano, Inc. is Japanese company with its principal place of business in Osaka, Japan. Shimano North America Holding, Inc. is a U.S. subsidiary of Shimano, Inc., headquartered in Irvine, California. Shimano is a registered trademark of Shimano, Inc. and various Shimano, Inc. products are marketed and sold under the Shimano trade name.

JURISDICTION AND VENUE

8. Defendants have submitted themselves to the jurisdiction of this Court pursuant to Section 506.500(3) of the Revised Statutes of Missouri. The causes of action alleged herein arise out of Defendants' commission of tortious acts within the State of Missouri.

9. This Court has personal jurisdiction over Defendants under the test established in *Calder v. Jones*, 465 U.S. 783 (1984) because: (i) FSAS is a Missouri limited liability company that is headquartered in Livingston County, Missouri; (ii) the causes of action alleged herein arose out of Defendants' intentional act of filing a false report about known Missouri resident FSAS with the express purpose of causing commercial harm to FSAS; and (iii) Defendants' intentional and tortious conduct was expressly aimed at a target in the state of Missouri.

10. Venue is proper in this Court pursuant to § 508.010.4, RSMo., as this action includes a count alleging a tort in which FSAS was first injured in Livingston County, Missouri.

11. FSAS will seek to recover less than \$75,000 against Defendants in this matter and the amount in controversy is less than \$75,000, exclusive of interest and costs.

12. Thus, although FSAS and Defendants are citizens and residents of different states for diversity jurisdiction, this case may not be removed to federal court, as the amount in controversy is less than \$75,000, exclusive of interest and costs.

FACTUAL ALLEGATIONS

13. FSAS is an online retailer with 58 employees in Livingston County, Missouri.

14. FSAS purchases freight and processes it for resale online at a discounted price, primarily on a sub-platform on eBay.

15. FSAS buys pallets comprised of a variety of items at the Cargo Largo Bid Sale in Kansas City, Missouri.

16. Cargo Largo auctions pallets of goods that come from freight carriers' orphaned products and consumer products companies' excess inventories.

17. FSAS transports the pallets to its warehouse in Chillicothe, Missouri, where it sorts, prices and lists those items for sale on eBay.

18. To date, FSAS has sold tens of thousands of items through internet sales. Scrupulous compliance with eBay's terms and conditions is essential to the survival of FSAS's business.

19. The anti-counterfeiting program at eBay requires all sellers to ensure that the items they sell are authentic and that the listing descriptions do not infringe on the rights of others.

20. Rights owners who believe that an eBay listing infringes on their intellectual property rights can file a report with eBay against the seller.

21. eBay will remove reports of alleged counterfeit listings against a seller *only* if the rights owner retracts the report.

22. As few as three reports of allegedly selling a counterfeit item can subject a seller to selling restrictions, and even suspension, from eBay.

23. Shimano manufactures bicycle components and markets them to dealers throughout the United States, including in the state of Missouri.

24. FSAS acquired a Shimano Bike Chain 8 Speed Alloy Steel through a Cargo Largo auction and listed it for sale in its eBay store.

25. On December 20, 2021, FSAS received notification from eBay that Defendants had filed a counterfeit product report against FSAS for listing a Shimano bike chain, which Defendants claimed was a counterfeit item. *See* Exhibit 1.

26. On December 30, 2021, per eBay's instruction, FSAS wrote an email to Defendants informing Defendants that the item was authentic.

27. In its December 30, 2021 email to Defendants, FSAS requested that Defendants provide the basis for its allegation to eBay that FSAS was selling a counterfeit item. In the event Defendants could not provide such information, FSAS requested that Defendants retract the report of FSAS allegedly selling a counterfeit Shimano product on eBay.

28. On March 24, 2022, FSAS sent a follow-up email to Defendants requesting the retraction of the false report. In the email, FSAS also included a photograph of the disputed item and explained how FSAS had acquired it. *See* Exhibit 2.

29. On March 28, 2022, FSAS sent a final email to Defendants reiterating its request for a retraction.

30. FSAS explained that it depends on access to eBay's platform to make its sales and that Defendants' unfounded report to eBay interfered with FSAS's business relationship with eBay.

31. FSAS again asked Defendants to state the basis for its allegation that FSAS had listed a counterfeit product or retract the report within twenty-four hours. *See* Exhibit 2.

32. Defendants have not responded to FSAS's requests for the basis of Defendants' alleged counterfeit claim.

33. In fact, the item FSAS is selling is a genuine Shimano bike chain that FSAS is perfectly within its rights to sell.

34. Despite repeated requests, Defendants refuse to retract their false complaint to eBay alleging that FSAS attempted to sell a counterfeit item.

COUNT I
TORTIOUS INTERFERENCE WITH BUSINESS RELATIONS

35. FSAS incorporates by reference, as if fully set forth herein, Paragraphs 1 through 34 of this Petition.

36. FSAS has an essential business relationship with eBay whereby FSAS lists its resale items on eBay's online platform.

37. FSAS reasonably expects its business relationship with eBay to continue in the future.

38. As manufacturers and online sellers of a consumer product, Defendants were aware of FSAS's business relationship with eBay.

39. Defendants' false report to eBay about FSAS's online listing of a Shimano bike chain demonstrates that Defendants had direct knowledge of the business relationship between FSAS and eBay.

40. Defendants had no basis in law or fact for its false report to eBay that FSAS had allegedly listed a counterfeit item for sale.

41. By making a false and misleading report to eBay alleging that FSAS had listed a counterfeit product for online sale, Defendants intentionally interfered with FSAS's economic relationship with eBay and potential online purchasers.

42. Defendants interfered with FSAS's business relationship with eBay to gain a competitive advantage and with the intent to harm FSAS.

43. As a direct and proximate result of Defendants' false report, eBay removed FSAS's listing of the Shimano bike chain and placed FSAS on a watch list designed to deter online vendors from selling counterfeit items on the eBay platform.

44. By wrongfully making and then refusing to retract its false allegation to eBay of FSAS selling a counterfeit item, Defendants have harmed FSAS's business and reputation.

COUNT II **INJURIOUS FALSEHOOD**

45. FSAS incorporates by reference, as if fully set forth herein, Paragraphs 1 through 44 of this Petition.

46. Defendants knew or should have known that its written report to eBay alleging that FSAS had listed a counterfeit item for sale was false.

47. Defendants knew or should have known that by making a false report about FSAS to eBay, it was making false statements about FSAS that were injurious to FSAS's business relationship with eBay.

48. Defendants' false and derogatory report to eBay was made maliciously and without justifiable excuse in order to damage FSAS's business relationship with eBay.

49. As a direct and proximate cause of Defendants' false report to eBay and its refusal to retract that report, FSAS has suffered pecuniary damages.

COUNT III

DEFAMATION

50. FSAS incorporates by reference, as if fully set forth herein, Paragraphs 1 through 49 of this Petition.

51. In their written report to eBay, Defendants alleged that FSAS had listed a counterfeit item for sale in its online store.

52. This is a purported factual statement that was false at the time it was made and continues to be false.

53. Defendants made the false statement to a third party (eBay) with the intent to injure FSAS's business and without justification or excuse, without any basis in law or fact, and with knowledge that it was false.

54. Defendants' false statement about FSAS impugned the integrity of FSAS's business practices and is the direct and proximate cause of damage to FSAS's reputation with eBay. Consequently, FSAS has suffered damages to its business reputation.

PRAYER FOR RELIEF

WHEREFORE, FSAS prays for judgment as follows:

- a. For judgment in favor of FSAS and against Defendants on all counts;
- b. For a judicial determination and declaration that the Shimano bike chain which FSAS listed for sale is not counterfeit;
- c. For an order enjoining Defendants to retract their report and request reinstatement of FSAS's listing of the Shimano bike chain on eBay;
- d. For actual and punitive damages in favor of FSAS and against Defendants;
- e. For an award of attorney's fees and court costs against Defendants; and
- f. For such other and further relief as the Court deems just and proper.

Dated: May 6, 2022

Respectfully submitted,

CHAPMAN AND COWHERD, P.C.

By: 

Lauren A. Horsman - #60982

903 Jackson – P.O. Box 228

Chillicothe, MO 64601

Telephone: 660-646-0627

Telefax: 660-646-1105

E-mail: lhorsman@cctlaw.com

ATTORNEY FOR PLAINTIFF.

Exhibit 1

Subject: Fw: Your account is about to be restricted: VeRO Unauthorized Item Policy
Date: Thursday, December 30, 2021 at 10:39:15 AM Central Standard Time
From: Vincent Gnoffo
To: Vincent Gnoffo

fyi

----- Forwarded Message -----

From: Vincent Gnoffo <vgnoffo@yahoo.com>
To: Mike Amon <mike@fsasllc.com>
Sent: Thursday, December 30, 2021, 10:37:38 AM CST
Subject: Re: Your account is about to be restricted: VeRO Unauthorized Item Policy

Thanks, Mike. Got it.

On Thursday, December 30, 2021, 10:16:33 AM CST, Mike Amon <mike@fsasllc.com> wrote:

Here is the one I just told you about from Shimano. This is on the FSAS account.

From: no.reply@ebay.com <no.reply@ebay.com>
Sent: Monday, December 20, 2021 7:40 PM
To: admin <admin@fsasllc.com>
Subject: Your account is about to be restricted: VeRO Unauthorized Item Policy



Hello fsasllc,

Activity on your account does not follow our VeRO Unauthorized Item Policy and requires your attention before being restricted. Unauthorized copies or counterfeits are illegal and not allowed on eBay

What activity didn't follow the policy

****Fair warning was not provided in this case because the reason it was reported is due to concerns about the item its self and no modifications can be made to bring the listing into compliance.****

What you need to do next

Items removed for this policy cannot be relisted. Please ensure that your future listings are for authentic items only. For these items, they should be described accurately and completely, so buyers know that it is an authentic item.

What is the policy

- Your listing was reported by Shimano, Inc. for offering a counterfeit item.. eBay's Verified Rights Owner (VeRO) program offers intellectual property rights owner(s) a way to report listings that they believe infringe on their rights

- Counterfeits are illegal, and not allowed on eBay
 - If you believe a mistake has been made, you will need to contact the rights owner directly. If the rights owner approves your appeal, please have them contact us directly to reinstate your listing(s)
- You can send an email to:

brandprotection@mm-shimano.com

The rights owner has created a VeRO Participant Profile page that contains information to help you understand why removal of your listing was requested. For more information about the rights owner, please go to:

<http://vero.ebay.com/vero/shimano.pdf>

How this affects your account

Because you haven't followed this policy in the past:

- Listings that don't follow this policy have been ended.
- A temporary 3-day selling restriction has been placed on your account (starting 48 hours after the date of this notice), and your other listings will be hidden from search during this period. Listings will automatically be restored and show up in search results after the end of the temporary restriction.
- All fees paid or payable for listings that are ended and/or hidden from search will not be refunded or otherwise credited to your account..

Listings that don't follow this policy in the future will result in similar actions, including a 7-day restriction on your account.

Why we have this policy

This policy helps to ensure that eBay users trust our marketplace, and comply with the law.

More information and help

<https://www.ebay.com/help/policies/listing-policies/selling-policies/intellectual-property-vero-program?id=4349>

Listings not following policy

275003848120 - Shimano Bike Chain 8 Speed Alloy Steel â€ŽIG51

We appreciate your understanding.

Thanks,
eBay

Please don't reply to this message. It was sent from an address that doesn't accept incoming email.

eBay Document ID: 112549335008



Visit our [Privacy Notice](#) and [User Agreement](#) for more information.

Learn more about [account protection](#). If you have a question, [contact us](#).

eBay Inc., 2025 Hamilton Ave., San Jose, CA 95125, United States

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Exhibit 2

Subject: Final follow up re appeal to contact eBay ® to request to reinstate listing - 275003848120 - Shimano Bike Chain 8 Speed Alloy Steel â€ŽIG51
Date: Monday, March 28, 2022 at 1:17:24 PM Central Daylight Time
From: Vincent Gnoffo
To: brandprotection@mm-shimano.com
CC: Mike Amon, Klint Bruno
Attachments: IMG_7261.JPG

Dear Sir/Madam,

We are awaiting Shimano's reply to our question regarding Shimano's December 20, 2021 VeRO complaint to eBay, reporting the following item as counterfeit:

275003848120 - Shimano Bike Chain 8 Speed Alloy Steel â€ŽIG51 (copy of photo attached)

Please state the basis for reporting the item as counterfeit. FSAS depends on access to the eBay platform to make its sales. Shimano's allegation to eBay that FSAS was attempting to sell a counterfeit product damages FSAS in two ways: (1) it is defamatory; and (2) it unjustifiably interferes with FSAS's business relationship with eBay. This letter serves as final notice to you. **If you do not provide a basis for you claim, or retract your false claim and instruct eBay to reinstate the listing within 24 hours, FSAS will file a lawsuit against you.**

You may contact me by email or call Mike Amon at 913-972-0382, if you would like to discuss by phone.

Sincerely,

Vincent Gnoffo
Counsel

Cc Mike Amon
Klint Bruno

From: Vincent Gnoffo <vgnoffo@fsasllc.com>
Date: Thursday, March 24, 2022 at 2:24 PM
To: brandprotection@mm-shimano.com <brandprotection@mm-shimano.com>
Cc: Mike Amon <mike@fsasllc.com>, Klint Bruno <klintbruno@gmail.com>
Subject: Follow up re appeal to contact eBay ® to request to reinstate listing - 275003848120 - Shimano Bike Chain 8 Speed Alloy Steel â€ŽIG51

Dear Sir/Madam,

Further to the bellow, we are awaiting your reply. Please state the basis for your claim to eBay that Shimano product (photo attached) is counterfeit and include all supporting materials in response to this email. If you do not have a basis for your claim that this product is counterfeit, per eBay's policy, **please contact eBay directly to retract the report and allow the reinstatement of this listing in the**

next 48 hours. Your failure to do so will damage FSAS's business and reputation.

Your attention to this matter is appreciated. Please feel free to respond to this email if you have any questions, or call Mike Amon at 913-972-0382, if you would like to discuss by phone.

Sincerely,

Vincent Gnoffo
Counsel

Cc
Mike Amon
Klint Bruno

From: Vincent Gnoffo <vgnoffo@fsasllc.com>

Date: Thursday, December 30, 2021 at 1:01 PM

To: brandprotection@mm-shimano.com <brandprotection@mm-shimano.com>

Cc: Mike Amon <mike@fsasllc.com>, kb@brunolawus.com <kb@brunolawus.com>

Subject: Appeal to contact eBay® to request to reinstate listing - 275003848120 - Shimano Bike Chain 8 Speed Alloy Steel â€ŽIG51

Via Email: brandprotection@mm-shimano.com

Dear Sir/Madam,

Further to your December 20, 2021 reporting of an FSAS LLC listing of a Shimano product on eBay®, FSAS LLC appeals to Shimano to contact eBay® to request to reinstate the listing. In this regard, FSAS LLC wishes to inform you that FSAS LLC is reselling a good that was previously sold by Shimano. The good is contained in it's original Shimano packaging, and there is no indication that it is other than a genuine product, i.e., that it is a counterfeit. Under the first sale doctrine, codified at 17 U.S.C § 109, FSAS LLC has the right to sell, display or otherwise dispose of the good.

FSAS LLC previously purchased the Shimano product as part of an auction from Cargo Largo Bid Sale, Kansas City, MO. The products sold by Cargo Largo Bid Sale come from freight carriers' orphaned products and/or consumer products companies' excess inventories. FSAS LLC then resells products that it purchases from the auctions. The following is the product that FSAS LLC appeals to Shimano to request to eBay® to reinstate the listing.

275003848120 - Shimano Bike Chain 8 Speed Alloy Steel â€ŽIG51

Please feel free to let us know if you have any questions or concerns regarding the FSAS LLC resale of the Shimano product on eBay®. As a show of good faith while you review this appeal, FSAS LLC has removed the Shimano listing from eBay® in the meantime.

Sincerely,

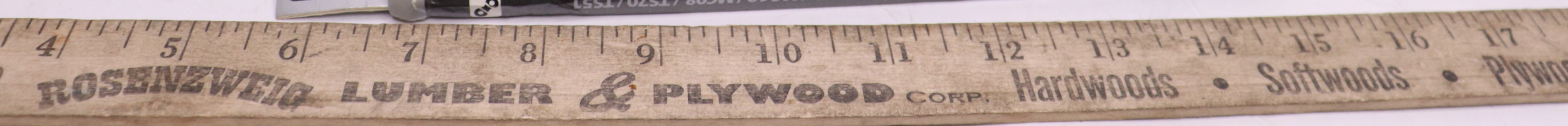
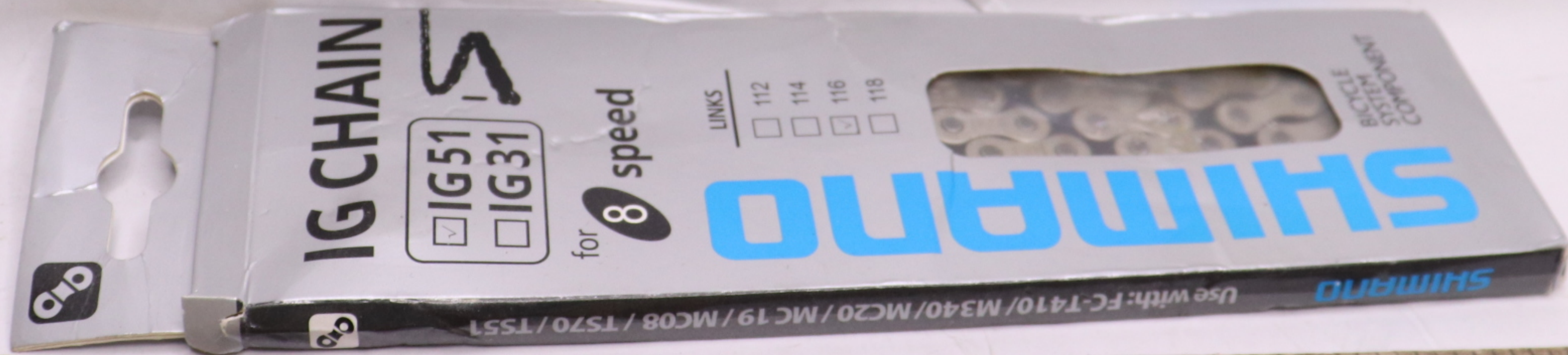
Vincent Gnoffo

Counsel FSAS LLC

Cell: 312-771-0287

cc: Mike Amon

Klint Bruno





IN THE 43RD JUDICIAL CIRCUIT COURT, LIVINGSTON COUNTY, MISSOURI

| | |
|---|---|
| Judge or Division: RYAN WESLEY HORSMAN | Case Number: 22LV-CC00014 |
| Plaintiff/Petitioner: FSAS LLC | Plaintiff's/Petitioner's Attorney/Address: LAUREN HORSMAN CHAPMAN COWHERD AND TURNER 903 JACKSON ST PO BOX 228 CHILLICOTHE, MO 64601 |
| Defendant/Respondent: SHIMANO, INC. | Court Address: 700 WEBSTER ST LIVINGSTON CO COURTHOUSE CHILLICOTHE, MO 64601 |
| Nature of Suit: CC Other Miscellaneous Actions | (Date File Stamp) |

Summons for Service by Registered or Certified Mail

The State of Missouri to: SHIMANO, INC.

Alias:

3-77 OIMATSU-CHO, SAKAI-KU

Osaka

SAKAI CITY, 590-8577

COURT SEAL OF



LIVINGSTON COUNTY

You are summoned to appear before this court and to file your pleading to the petition, copy of which is attached, and to serve a copy of your pleading upon the attorney for the Plaintiff/Petitioner, or Plaintiff/Petitioner, if pro se, at the above address all within 30 days after the return registered or certified mail receipt signed by you has been filed in this cause. If you fail to file your pleading, judgment by default will be taken against you for the relief demanded in the petition.

05/10/2022

/S/ Nichole Neudorff

Date Issued

Clerk

Further Information:

Certificate of Mailing

I certify that on _____ (date), I mailed a copy of this summons and a copy of the petition to Defendant/Respondent SHIMANO, INC. by registered or certified mail, requesting a return receipt by the addressee only, to the said Defendant/Respondent at the address furnished by Plaintiff/Petitioner.

Date

Clerk



IN THE 43RD JUDICIAL CIRCUIT COURT, LIVINGSTON COUNTY, MISSOURI

| | | |
|---|---|-------------------|
| Judge or Division: RYAN WESLEY HORSMAN | Case Number: 22LV-CC00014 | (Date File Stamp) |
| Plaintiff/Petitioner: FSAS LLC | Plaintiff's/Petitioner's Attorney/Address: LAUREN HORSMAN CHAPMAN COWHERD AND TURNER 903 JACKSON ST PO BOX 228 CHILLICOTHE, MO 64601 | |
| Defendant/Respondent: SHIMANO, INC. | Court Address: 700 WEBSTER ST LIVINGSTON CO COURTHOUSE CHILLICOTHE, MO 64601 | |
| Nature of Suit: CC Other Miscellaneous Actions | | |

Summons for Service by Registered or Certified Mail

The State of Missouri to: SHIMANO NORTH AMERICA HOLDING, INC.

Alias:

130 S. BEMISTON AVE., STE. 500
ST. LOUIS, MO 63105

COURT SEAL OF



LIVINGSTON COUNTY

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05/10/2022

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/S/ Nichole Neudorff

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Further Information:

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Date

Clerk

IN THE CIRCUIT COURT OF LIVINGSTON COUNTY, MISSOURI

FSAS, LLC,

Plaintiff,

vs.

SHIMANO, INC., et al.,

Defendants.

)
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Case No. 22LV-CC00014

ORDER OF ASSIGNMENT

NOW on this 16th day of May, 2022, this cause is hereby assigned to Hon. Daren L.

Adkins,

FILED

MAY 16 2022

JANE GANN, CIRCUIT CLERK
LIVINGSTON CO. MO.



PRESIDING JUDGE

JS 44 (Rev 09/10)

UNITED STATES DISTRICT COURT WESTERN DISTRICT OF MISSOURI

CIVIL COVER SHEET

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the Western District of Missouri.

The completed cover sheet must be saved as a pdf document and filed as an attachment to the Complaint or Notice of Removal.

Plaintiff(s):
First Listed Plaintiff:

FSAS, LLC ;

4 Incorporated or Principal Place of Business in This State;

County of Residence: Livingston County

Defendant(s):
First Listed Defendant:

SHIMANO, INC. ;

6 Foreign Nation;

County of Residence: Outside This District

Additional Defendants(s):

SHIMANO NORTH AMERICA HOLDING, INC. ;

5 Incorporated and Principal Place of Business in Another State; California

County Where Claim For Relief Arose: Livingston County

Plaintiff's Attorney(s):

Lauren A. Horsman (FSAS, LLC)

Chapman and Cowherd, P.C.

903 Jackson, P. O. Box 228

Chillicothe, Missouri 64601

Phone: 660-646-0627

Fax: 660-646-1105

Email: lhorsman@cettlaw.com

Defendant's Attorney(s):

Kevin W. Prewitt (SHIMANO, INC.)

Armstrong Teasdale LLP

2345 Grand Blvd., Suite 1500

Kansas City, Missouri 64108

Phone: 816-221-3420

Fax: 816-221-0786

Email: kprewitt@atllp.com

Clark H. Cole (SHIMANO NORTH AMERICA HOLDING, INC.)

Armstrong Teasdale LLP

7700 Forsyth Blvd., Suite 1800

St. Louis, Missouri 63105

Phone: 314-621-5070

Fax: 314-621-5065

Email: ccole@atllp.com

Basis of Jurisdiction: 4. Diversity of Citizenship

Citizenship of Principal Parties (Diversity Cases Only)
Plaintiff: 4 Incorporated or Principal Place of Business in This State

Defendant: 6 Foreign Nation

Origin: 2. Removed From State Court

State Removal County: Livingston County

State Removal Case Number: 22LV-CC00014

Nature of Suit: 360 Other Personal Injury Actions

Cause of Action: 28 U.S.C. § 1332(a)(1), in that it is a civil action wherein the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different states

Requested in Complaint

Class Action: Not filed as a Class Action

Monetary Demand (in Thousands): 75,000+

Jury Demand: No

Related Cases: Is NOT a refiling of a previously dismissed action

Signature: /s/ Kevin W. Prewtt

Date: 6/9/22

If any of this information is incorrect, please close this window and go back to the Civil Cover Sheet Input form to make the correction and generate the updated JS44. Once corrected, print this form, sign and date it, and submit it with your new civil action.